

June 8, 2007

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VIA U.S. MAIL and
VIA EMAIL to WUTC RECORDS CENTER
records@wutc.wa.gov

Ms. Carole J. Washburn
WUTC Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

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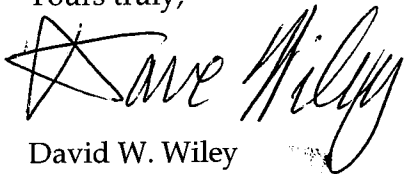
Re: *Waste Connections of Washington, Inc. v.*
Enviro/Con & Trucking, Inc., et al.

Dear Ms. Washburn:

Enclosed please find the original and twelve copies of the Complaint and, Alternatively, Petition for Declaratory Order, and Application for Brief Adjudicative Proceeding, with attached Certificate of Service, for filing with the Commission. Also enclosed is an extra copy of the face sheet. Please stamp the copy as received or filed, and once a docket number is assigned, return to us in the enclosed self-addressed stamped envelope.

Please contact me if you have any questions or concerns.

Yours truly,



David W. Wiley
(206) 233-2895
dwiley@williamskastner.com

DAV:fd
Enclosures

cc: Mr. Dan Schooler, Waste Connections of Washington, Inc. (w/encl.)

Williams, Kastner & Gibbs PLLC
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STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASTE CONNECTIONS OF
WASHINGTON, INC.

Complainant,

v.

ENVIRO/CON & TRUCKING, INC., a
Washington corporation, ENVIROCON, INC., a
corporation, and WASTE MANAGEMENT
DISPOSAL SERVICES OF OREGON, INC.,

Respondents.

NO. TG-071194

COMPLAINT AND, ALTERNATIVELY,
PETITION FOR DECLARATORY
ORDER, AND APPLICATION FOR
BRIEF ADJUDICATIVE PROCEEDING

I. PRELIMINARY STATEMENT

I Waste Connections of Washington, Inc., 9411 N.E. 94th Avenue, Vancouver, WA 98662, (hereinafter "Complainant"), a Washington corporation, and holder of Certificate of Public Convenience and Necessity No. G-253, by and through its counsel, David W. Wiley of Williams Kastner, Suite 4100, Two Union Square, 601 Union Street, Seattle, Washington 98101, and pursuant to RCW 81.04.110, 81.77.030 and WAC 480-07-370, brings this Complaint and, alternatively, petitions for a Declaratory Order against Enviro/Con &

**COMPLAINT AND, ALTERNATIVELY, PETITION FOR
DECLARATORY ORDER, AND APPLICATION FOR BRIEF
ADJUDICATIVE PROCEEDING - 1**

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Williams, Kastner & Gibbs PLLC
Two Union Square, Suite 4100 (98101-2380)
Mail Address: P.O. Box 21926
Seattle, Washington 98111-3926
(206) 628-6600

ORIGINAL

Trucking, Inc., *et al.* (hereinafter “Respondents”), asking the Washington Utilities and Transportation Commission (hereinafter “Commission” or “WUTC”), to either issue a Cease and Desist Order directing Respondents to cease and desist from engaging in the collection and transportation of solid waste from the Evergreen Aluminum remediation site (hereinafter “the site”) in unincorporated Clark County for disposal without certificated authority or declare that the subject solid waste collection activity to be developed on this record is subject to RCW 81.77.040, RCW 81.77.100 and WAC 480-70-006, *et seq.*

II. JURISDICTION / STATUTE AND RULES AT ISSUE

3 The Commission has jurisdiction over this Complaint and, Alternatively, Petition for a Declaratory Order and the Respondents’ activities described herein under RCW 81.04.110, 81.77.040, RCW 34.05.240, WAC 480-70-006, 041 and various other laws and rules cited herein.

III. STATEMENT OF FACTS RELIED UPON

4 Complainant is the holder of WUTC Certificate of Public Convenience and Necessity No. G-253, attached hereto as Exhibit A, which authorizes Complainant to collect solid waste in unincorporated Clark County.

5 To Complainant’s knowledge and belief, Respondent Enviro/Con & Trucking, Inc. and possibly other respondents have repeatedly engaged in the collection and transportation of solid waste in the form of construction debris and/or construction waste (hereinafter “C & D Waste”) over the public highways of the state, as defined by WAC 480-70-041, from the Evergreen Aluminum site in unincorporated Clark County, 5701 Lower River Road,

Vancouver, Washington to Hillsboro, Oregon in 2007 without a Certificate of Public Convenience and Necessity in violation of RCW 81.77.040.

6 Complainant further alleges on information and belief that Respondent Envirocon, Inc. and/or Respondent Waste Management Disposal Services of Oregon, Inc. (d/b/a Oregon Waste Systems) have individually and/or jointly assumed the overall degree of responsibility for the transportation and disposal of C & D Waste on the subject job site subjecting them jointly and/or severally to regulation under Chapter 81.77 as solid waste collection companies.

IV. BASIS FOR COMPLAINT/PETITION FOR DECLARATORY ORDER

7 Under RCW 81.77.090, every person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provisions of RCW 81.77, *et seq.*, or who fails to obey, or comply with any rule, regulation, or requirement of the commission, or any part or provision thereof, is guilty of a gross misdemeanor.

8 On information and belief, Complainant alleges that in the weeks preceding the filing of this Complaint to the present, Respondent Enviro/Con & Trucking has unlawfully operated as an uncertificated solid waste collection company in unincorporated Clark County, Washington by collecting C & D Waste on the site and by subsequently transporting solid waste over the public highways of the State for compensation.

9 On information and belief, Complainant alleges that Respondent Waste Management Disposal Services of Oregon, Inc. and/or its affiliates or assigns has contracted with Evergreen Aluminum for the collection, removal, transport, and disposal of C & D Waste

from the site in Clark County for ultimate disposal at the Hillsboro, Oregon Landfill owned and/or operated by Waste Management Disposal Services of Oregon, Inc. and/or its parent or affiliate, and which project is managed, on information and belief, by or on behalf of Envirocon, Inc.

10 Complainant also alleges that the ongoing collection and transportation of C & D Waste violates local law, specifically Chapter 24.12 of the Clark County Code, in that those activities appear to circumvent the solid waste management plan for Clark County by avoiding delivery of the collected C & D Waste to county transfer stations.

11 Because Respondents continue to operate in violation of RCW 81.77, *et seq.*, the Commission should, after a hearing, issue a Cease and Desist Order pursuant to RCW 81.04.510 and WAC 480-70-221, specifically barring the collection and/or transportation of C & D Waste from the Evergreen Aluminum site without a “G” Certificate or, alternatively, enter a Declaratory Order, pursuant to RCW 34.05.240, finding the subject activity in violation of RCW 81.77.040 and WAC 480-70-081.

V. BRIEF ADJUDICATIVE PROCEEDING REQUEST

12 The Complainant further requests that the Commission determine this matter in a brief adjudicative proceeding pursuant to RCW 34.05.482 and WAC 480-07-610. Complainant asserts this matter is susceptible to resolution by a brief adjudicative proceeding because the following requirements of RCW 34.05.482 are here met: (1) a quick resolution of the dispute is in the public interest; (2) the public interest does not require the Commission to give notice and an opportunity to participate to persons other than the Respondent parties

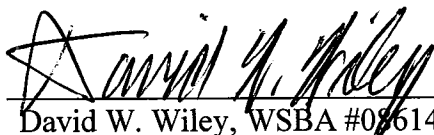
and interested parties, potentially including the Washington Refuse & Recycling Association (“WRRA”) and Clark County, served herewith; and (3) a brief adjudicative hearing, potentially on a stipulated record, would be adequate to permit the Commission to consider the matter and issue a prompt and sound decision.

VI. PRAYER FOR RELIEF

13 WHEREFORE, Complainant prays for an order directing Respondents to Cease and Desist from engaging in the collection and transportation of construction and demolition debris and waste located at the Evergreen Aluminum remediation site in unincorporated Clark County, Washington or, alternatively, for an order from the Commission declaring that on the basis of the facts to be adduced on this record, the collection and transportation of the construction and demolition debris waste for disposal from the Evergreen Aluminum site in Clark County is subject to the provisions of RCW 81.77.040 and cannot be transported over the public highways of the State of Washington without a certificate of public convenience and necessity issued under Chapter 81.77 RCW.

RESPECTFULLY SUBMITTED this 8th day of June, 2007.

WILLIAMS, KASTNER & GIBBS PLLC

By 
David W. Wiley, WSBA #07614
Jacob M. Downs, WSBA #37982

Attorneys for Complainant Waste
Connections of Washington, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served this document upon all parties of record in this proceeding, by the method as indicated below, pursuant to WAC 480-07-150.

Waste Management Disposal Services of Oregon, Inc. 5330 N.E. Skyport Way Portland, Oregon 97218	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail
<i>Attorneys for Waste Management Disposal Services of Oregon, Inc.</i> Polly L. McNeill Summit Law Group 315 – 5th Avenue S. Seattle, Washington 98104 pollym2@summitlaw.com	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
Enviro/Con & Trucking, Inc. 29620 Old Hwy. 99 Stanwood, Washington 98292	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail
<i>Registered Agent for Enviro/Con & Trucking, Inc.</i> RSC Corp. 1201 3rd Avenue, Suite 3400 Seattle, Washington 98101-3034	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail
Envirocon, Inc. 3330 NW Yeon Ave., Suite 240 Portland, OR 97210	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail
<i>Registered Agent for Envirocon, Inc.</i> C T Corporation System 1801 West Bay Drive NW, Suite 206 Olympia, Washington 98502	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail
Brad Lovaas Executive Director Washington Refuse and Recycling Association 4160 6th Avenue S.E., Suite 205 Lacey, WA 98503 brad@wrra.com	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email

<p><i>Attorney for Washington Refuse and Recycling Association</i> James R. Sells Ryan Sells Uptegraft Inc. PS 9675 Levin Road N.W., Suite 240 Silverdale, WA 98383-7620 jimsells@rsulaw.com</p>	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
<p>Bronson Potter Deputy Prosecuting Attorney Clark County Prosecuting Attorney's Office Civil Division P.O. Box 5000 Vancouver, WA 98666-5000 bronson.potter@clark.wa.gov</p>	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email

DATED at Seattle, Washington, this 8th day of June, 2007.



Franny Drobny, Legal Assistant

WASTE CONNECTIONS OF WASHINGTON, INC.
d/b/a WASTE CONNECTIONS
9411 NE 94TH
VANCOUVER, WA 98662

PERMIT NO.
G-253
D-

SOLID WASTE COLLECTION SERVICE in Clark County, EXCLUDING the territory described as follows: Starting at the intersection of the east line of Section 10, T5N, R1E and the Clark-Cowlitz County Line (also the centerline of the Lewis River); thence south along said line extended to the southeast corner of Section 22, T5N, R1E; thence west along the south line of said section extended to the northwest corner of Section 28, T5N, R1E; thence south along the west line of said section to the southwest corner of said section; thence west along the south line of Section 29, T5N, R1E extended to its intersection with the Clark-Cowlitz County Line; thence northerly and easterly along said county line to its intersection with the east line of Section 10, T5N, R1E, the point of beginning.

EXCLUDING the City of Camas as of 9/13/1961.

SOLID WASTE COLLECTION SERVICE in that portion of Cowlitz County described as follows: Starting at the intersection of the west line of Section 27, T6N, R3E and the Clark-Cowlitz County Line; thence north along said line extended to the northwest corner of Section 15, T6N, R3E; thence east along the north line of said section to the northwest corner of Section 13, T6N, R3E; thence north along the west line of said section extended to the northwest corner of Section 24, T7N, R3E; thence east along the north line of said section extended to its intersection with the Cowlitz-Skamania County Line (also the east line of Section 24, T7N, R4E); thence south along said county line to its intersection with the Clark-Cowlitz County Line (also the centerline of the Lewis River); thence westerly and southerly along said county line to its intersection with the west line of Section 27, T6N, R3E, the point of beginning.

SOLID WASTE COLLECTION SERVICE in that portion of Skamania County described as follows: Starting at the southwest corner of Section 7, T5N, R5E; thence north along the west line of said section extended to the northwest corner of Section 19, T7N, R5E; thence east along the north line of said section extended to the northeast corner of Section 24, T7N, R6E; thence south along the east line of said section extended to the southeast corner of Section 12, T5N, R6E; thence west along the south line of said section extended to the southwest corner of Section 7, T5N, R5E, the point of beginning.

TG No. 020303

06-20-2002

EXHIBIT A